

**From:** Jim Snyder  
**To:** Microsoft ATR  
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**Subject:** Microsoft Settlement

The proposed settlement is woefully inadequate.

I'm a long-time computer user (30 years), a computer programmer, a part-time system administrator in my office, and the administrator of a home network of Macintoshes, Unix machines, and a Windows machine.

The settlement does little or nothing to address key Microsoft holdings which buttress Microsoft's monopoly and make it well-nigh unassailable: Microsoft proprietary application interfaces, protocols, and file formats.

I wish to focus primarily on file formats. In my workplace the use of products which compete with Microsoft products - OS other than Windows, word processors other than Microsoft Word, spreadsheets other than Microsoft Excel, and web browsers other than Microsoft Explorer - is difficult and sometimes simply not possible because no competing vendor has products which are fully compatible with the Microsoft file formats.

These competing products are not fully compatible because Microsoft does not release specifications for its file formats. Competing vendors must reverse-engineer Microsoft file formats, which change every time Microsoft releases new versions of its applications, typically about every year or two, and this process of reverse-engineering takes time.

Because any product which is less than fully compatible with the monopoly product is at a competitive disadvantage, every product which competes with a Microsoft monopoly product is automatically at a competitive disadvantage, not because of technical inferiority or higher cost, but because Microsoft can (and does) act to prevent compatibility, rather than competing on the basis of price, performance, and other market-differentiating issues, eg security.

There is no benefit to society when Microsoft locks out competition in this way. There is of course no guarantee that competing products would eat into Microsoft's market share, but it does seem reasonable to believe that Microsoft would be forced to compete on price, performance, etc, if the playing field were leveled. Microsoft is clearly not competing on price and performance at this time.

Indeed, this behavior is reminiscent of Bell System behavior in the 1950s and 1960s which led to the Carterfone case. Microsoft need not threaten to disconnect customers who use non-monopoly products as did AT&T; these customers are automatically at risk of disconnection from the monopoly customer 'network' because Microsoft denies the vendors of non-monopoly products the information they must have if they are to

produce products which are compatible with monopoly products, and hence able to compete with monopoly products. In effect, file formats are the "interconnection specifications" which the Bell System was compelled to provide (as a monopoly) to vendors who wished to compete for telephone business. Microsoft, as a monopoly, should likewise be compelled to provide interconnection specifications to their applications, so that other vendors can build applications which compete on a level playing field with Microsoft's monopoly applications.

Nothing in the settlement addresses file formats. Hence if this settlement is approved, Microsoft will continue to enjoy a monopoly in the applications space. And while their OS monopoly is not seriously threatened at this time, the Microsoft applications monopoly strengthens the Microsoft OS monopoly.

I suggest that Microsoft should be compelled to release specifications for their file formats on a timely basis - and that "timely" be explicitly defined so that competing vendors can release compatible products at the same time that Microsoft releases new versions of its monopoly products.

I suggest that access to these specifications should be open to everyone by publication on an open web site. I suggest that any competitor should be able to obtain a copy of the specifications either as a printed manual or on a CDROM (eg in pdf format) at a nominal cost-of-materials charge.

I suggest that updates and specification changes to these file formats should be made available on a timely basis - and again, that "timely" be defined explicitly, so that competing vendors can retain compatibility with monopoly applications.

I suggest that stiff penalties should be put in place so that if Microsoft fails to release file format specifications in accordance with the constraints put in place by the court - and Microsoft's past behavior indicates that they will drive a truck through any constraints if they believe they can get away with it - then Microsoft should be penalized sufficiently severely that the the cost of doing business in defiance of the court's orders will not long be sustainable. Any constraints on Microsoft's behavior must have teeth in them.

I suggest that there should be a watchdog group to which competitors can bring complaints of non-compliance by Microsoft's with these provisions. I further suggest that this watchdog group have the authority to direct Microsoft to release documents immediately, and to impose monetary penalties on Microsoft for non-compliance. Because Microsoft has always used time to its advantage, I suggest that penalties accrue from the time Microsoft has failed to respond to requests for information, and accrue during any appeals process.

I further suggest that the release of incomplete, incorrect, misleading,

or unusable information (for example, the release of specifications on Hollerith cards) incur punitive fines above and beyond any fines imposed for failing to comply with timelines specified for release of specifications. Microsoft should be compelled to release to competing vendors whatever specifications are provided to its own programmers simply because Microsoft is a monopoly. Other vendors cannot compete on a level playing field with the Microsoft monopoly without this protection.

Although I have focussed on file formats (because those affect me most directly in my work) much the same is true of application programming interfaces (APIs) and protocols - these are the interconnection specifications between applications and the Windows operating system in the former case, and between services and clients in the latter.

I suggest that the same constraints I have proposed for Microsoft file formats also be applied to APIs and protocols.

To go slightly further, Microsoft must be prohibited from sabotaging open protocols such as http by what Microsoft officers have called "de-commodification" of such protocols - willful Microsoft changes to established protocols which result in non-Microsoft products failing to produce expected results ("being incompatible") when dealing with information produced by Microsoft products. Microsoft must be made to play by the same rules as everyone else, lest they drive everyone else out of the game.

Microsoft should not be permitted to use their monopoly control of interconnection specifications as a barrier to competitors entering the market, just as the Bell System was not permitted to use its monopoly customer base and control of interconnection specifications to exclude non-Bell vendors from the marketplace.

Respectfully,

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